

# Part 28

## HOUSING ADVISORY COMMISSION

### Sections:

**2.08.2800**      **Commission established.**

**2.08.2810**      **Number of members.**

**2.08.2820**      **Functions, powers, and duties.**

### **2.08.2800      Commission established.**

The housing advisory commission is hereby established.

(Ord. 25209.)

### **2.08.2810      Number of members.**

The commission shall consist of seven members.

(Ord. 25209.)

### **2.08.2820      Functions, powers, and duties.**

The commission shall have the following functions, powers, and duties:

A. Study, review, evaluate and make recommendations to the city council and the department of housing of the city of San José, respecting the following matters:

1. Existing housing programs and policies in the city of San José;
2. New programs and policies that would further the city of San José's housing goals; and
3. The city of San José's progress in meeting its housing goals.

B. Conduct studies and submit to the city council and the city manager reports or recommendations respecting housing policy in the city of San José as the city council or the city manager may from time to time request.

(Ord. 25209.)

## **2.08.010 Establishment of boards and commissions.**

- A. Charter commissions are established by Article X of the Charter.
- B. All other boards and commissions are established by inclusion in this title and discontinued by exclusion from this title.

(Ord. 25209.)

## **2.08.020 Applicability of provisions.**

The general provisions of this part apply to all boards and commissions, except as otherwise specifically provided in the Charter or this chapter with respect to any specific board or commission.

(Ord. 25209.)

## **2.08.030 General functions, powers, and duties.**

- A. Each board or commission shall have the functions, powers, and duties as are granted to or bestowed upon it by the provisions of this chapter.
- B. The city council may, at any time, change the powers, functions and duties in any manner and to any extent as in its judgment is desirable.
- C. Each board or commission shall provide to the council not less than once each fiscal year a report of its activities.
- D. Each board or commission which requires funding in the city budget shall prepare and submit annually to the city manager a proposed budget covering its proposed activities for the next fiscal year.
- E. Each board or commission may organize advisory and resource subcommittees to advise the board or commission concerning its functions and duties.
- F. Each board or commission shall do such other things as may from time to time be requested or approved by council.
- G. Each board or commission shall coordinate with the city manager and/or the city clerk and the department heads designated by the city manager in the performance of the commission's functions.

(Ord. 25209.)

## **2.08.040 Continuity.**

Any board or commission which is declared to be a continuation of any discontinued board or commission or to which the functions, powers, or duties of any existing board or commission have been transferred shall have the power to continue any business, proceedings or other matter which was pending before the predecessor board or commission and to exercise those functions, powers, and duties in the same manner as the predecessor board or commission.

(Ord. 25209.)

## **2.08.050     Seat deemed vacant when.**

A.   The seat of a member of any board or commission shall become vacant upon the happening of any of the following events:

1.   The death of the member;
2.   Insanity of the member, when determined by a final judgment or final order of a court of competent jurisdiction;
3.   Resignation of the member;
4.   The member is no longer eligible, under any of the applicable provisions of this part to hold the office;
5.   Removal of the member from office;
6.   Absence of the member from the state for more than sixty (60) days, unless either upon business of the city or with consent of the council. In the case of illness or other urgent necessity, and upon a proper showing thereof, the time limit for absence from the state shall be extended by the council;
7.   The member ceases to discharge the duties of the office for a period of three consecutive months, except when prevented by sickness or when absent from the state with permission required by this section;
8.   The member is convicted of a felony or of any offense involving a violation of his or her official duties;
9.   The refusal or neglect of the member to file an official oath or bond, if it is required by law, within the time prescribed by law;
10.   The decision of a court of competent jurisdiction declaring void the member's election or appointment;
11.   The making of an order vacating the member's office or declaring the office vacant when the member fails to furnish an additional or supplemental bond if it is required by law;
12.   The commitment of the member to a hospital or sanitarium, by a court of competent jurisdiction, but in that event the office shall not be deemed vacant until the order of commitment has become final.

B.   In the event a vacancy should occur in the office of any member prior to the expiration of a term, the council, or the mayor if authorized by the council, shall appoint a successor for the unexpired portion of the member's term.

(Ord. 25209.)

## **2.08.060     Absence from meetings - Reappointment.**

A.   A member of any board or commission, other than the planning commission, the salary setting commission and the civil service commission, shall be deemed to have automatically resigned from office if:

1.   The board or commission has four or fewer regular meetings in any calendar year, and the member has unexcused absences from any two consecutive regular meetings of the board or commission; or
2.   The board or commission has more than four regular meetings in any calendar year, and the member has unexcused absences from either:

- a. Any three consecutive regular meetings of the board, or commission; or
  - b. More than twenty percent of the total number of regular meetings in any calendar year or if the member was appointed to fill a vacancy, more than twenty percent of the total number of remaining regular meetings in that calendar year.
- B. For purposes of this section, the following shall not be considered an unexcused absence:
- 1. An absence due to an illness of the member, or illness or death of a member's spouse, parent, child, brother or sister; or
  - 2. An absence because a member is away on authorized board or commission business; or
  - 3. For any member who is a city councilmember or a city employee, an absence due to the member performing required city business; or
  - 4. An absence from a meeting of the board of administration for the federated city employees retirement system or of the board of administration for the police and fire department retirement plan which the board of administration has found to be for good cause.
- C. Within a reasonable period, but not exceeding ten days after a member has been deemed to have resigned pursuant to this section, the secretary of the board or commission shall notify the city clerk of the vacancy and the city clerk shall thereupon notify the member that the member is deemed to have resigned pursuant to this section. The city clerk shall simultaneously notify the city council that the vacancy exists as a result of the automatic resignation.
- D. Except as provided in subsection A. above, the provisions of this section shall apply to all voting members of boards and commissions established or otherwise regulated under this Chapter 2.08.
- E. As used in this section, "regular meetings" means regularly scheduled meetings of the board or commission and shall not include special meetings. For purposes of this section, adjourned regular meetings or continued regular meetings shall be considered special meetings.
- F. For purposes of this section, a member shall be deemed absent from a meeting if the member fails to be in attendance at a regular meeting for at least one-half of the duration of the regular meeting.
- G. A member whose seat has become vacant by virtue of the above provisions may be reappointed to his or her former office for the balance of the member's unexpired term if the council finds there was good excuse for the member's absence from meetings or finds that the reappointment will be in the best interests of the city.
- H. In the event of a reappointment, the previous unexcused absences of the reappointed member shall not be considered in determining any future resignation of the member under this section.

(Ord. 25209.)

## **2.08.070 Chair and vice chair.**

- A. Unless otherwise provided, each board or commission shall appoint one of its members as chair to serve for a term as the board or commission may determine.
- B. The chair shall preside at all meetings of the board or commission.

C. Each board or commission may also appoint one of its members as a vice chair to serve in the place and stead of the chair during the chair's absence.

D. The chair and vice chair shall be subject to removal at any time, for any or no reason, by the board or commission.

(Ord. 25209.)

### **2.08.080 Procedural rules and regulations.**

A. Each board and commission shall adopt its own procedural rules and regulations for the conduct of its business.

B. The rules may:

1. Provide for the establishment of various offices, provided membership therein is restricted to members of the board or commission.

2. Provide for the establishment of various committees or subcommittees which may contain nonmembers of the board or commission, provided that at least one of the members of the board or commission is a member of every committee or subcommittee.

3. Specify the powers, duties and functions of the offices and committees. If nonmembers of the board or commission are allowed on committees or subcommittees, the rules of the board or commission shall contain specific rules for the establishment and operation of the committees or subcommittees, including rules setting out conflict-of-interest provisions and specifying the number of nonmembers allowed, whether a majority of members are required, the voting rights of nonmembers, and the powers, duties and functions of the committees or subcommittees.

C. The rules shall comply with all applicable laws and ordinances and other applicable regulations or limitations.

D. A copy of the rules shall be filed in the office of the city clerk, where they shall be available for public inspection.

(Ord. 25209.)

### **2.08.090 Quorum.**

Unless otherwise specifically provided in this chapter, a majority of the total number of member seats, filled or vacant, shall be necessary to constitute a quorum for a board or commission to take action, although a lesser number may adjourn from time to time.

(Ord. 25209.)

### **2.08.100 Physical and clerical facilities.**

Except as otherwise provided in this chapter, the city manager, or if appropriate, the city clerk, shall assign to each board and commission adequate space and facilities and the clerical and/or secretarial help as it may need for the performance of its functions, powers, and duties.

(Ord. 25209.)

## **2.08.110 Relationship with city departments.**

So far as is practicable, and subject to approval of the city manager, the services of the various city departments shall be made available by the heads of each department to the board or commission, to the extent it is necessary to enable it to perform its functions, powers, and duties.

(Ord. 25209.)

## **2.08.120 Members - Compensation.**

A. Unless otherwise specifically provided for members of a particular board or commission, each member of each board or commission shall serve as member, and if any office to which the member may be appointed or elected by the board or commission, without compensation.

B. However, subject to the appropriation of moneys therefor by the council, members may be paid or reimbursed for authorized expenses incurred by them in the performance of their functions, powers and duties.

(Ord. 25209.)

## **2.08.130 Removal from office.**

A. Except as provided in subsections B. and C., notwithstanding an appointment for a specific term or part of a term, any person appointed to and holding the position of member of any board or commission may be removed from appointment, at any time, by the council, with or without prior notice, and with or without cause.

B. Notwithstanding the appointment of a person to the position of member of the board of administration for the police and fire department retirement plan for a specific term or part of a term, any person holding such position may be removed by the council for cause as follows:

1. The San José Police Officers' Association, Local 230 of the International Association of Fire Fighters, or the city manager may submit a written request for removal to the city council. The request shall state the grounds for which removal is sought.

2. The city council shall hold a hearing on the request and shall provide notice of the hearing to the member of the board at least ten days prior to the date of the hearing.

3. After the hearing, the city council may remove the member of the board from office if the council finds that there exists substantial evidence of cause for removal.

C. Notwithstanding the appointment of a person to the position of member of the board of administration for the federated city employees retirement system for a specific term or part of a term, any person holding such position may be removed by the council for cause as follows:

1. The city manager or any employee organization recognized by the city as an exclusive representative of employees who are members of the federated city employees retirement system may submit a written request for removal to the city council. The request shall state the grounds for which removal is sought.

2. The city council shall hold a hearing on the request and shall provide notice of the hearing to the member of the board at least ten days prior to the date of the hearing.

3. After the hearing, the city council may remove the member of the board from office if the council finds that there exists substantial evidence of cause for removal.

(Ords. 25209, 26033, 26354.)

## **2.08.140 Temporary vacancies.**

A member of a commission may be granted a leave of absence by the city council, and a temporary vacancy shall thereupon exist for the period of such leave of absence. During the period of such temporary vacancy, the council may fill such vacancy by temporary appointment to the commission; provided, however, that the period of such temporary appointment shall not exceed the period of the temporary vacancy. At the expiration of a leave of absence so granted, the member shall automatically resume membership on the commission.

(Ord. 25209.)

## **2.08.150 Term.**

- A. The term of appointment to a Charter commission is as established by the Charter.
- B. Members of boards or commissions not established by the Charter shall serve for a term of three years unless otherwise specified in this chapter. Such members shall be eligible for reappointment at the expiration of their first term for one additional three-year term. The first term shall begin from the date of the expiration of the former incumbent's term, irrespective of the date of actual appointment.
- C. Unless otherwise specified in this chapter, members who are appointed to serve unexpired terms shall serve to the end of the former incumbent's term.
- D. Except as otherwise specified in this chapter, a member may be appointed to serve a term of less than three years or a term of less than the number of years established by this chapter for the particular board of commission if the council determines that it is in the best interest of the board or commission that a member serve a shorter term in order to provide for appropriate staggered terms to preserve a continuity of membership on the board or commission.
- E. Except as otherwise specified in this chapter, if a member has been appointed to serve a term of less than one and one-half years, the member may be reappointed to serve on the same board or commission for up to two consecutive additional terms.
- F. Notwithstanding subsections A. through E. above, a member may be appointed to serve a third consecutive term with a length of one to three years, in the discretion of the city council, if the city council finds that reappointment of such member to a commission would be necessary to:
  - 1. Maintain a functioning quorum on the commission; or
  - 2. Maintain commissioners with one or more years of experience or a required background on the commission; or
  - 3. Establish or reestablish staggered terms to preserve a continuity of membership on the board or commission.

(Ords. 25209, 25498, 25840, 27255.)

## **2.08.160 Council liaison representative.**

A. The city council shall appoint one of its members to act as a liaison representative to every board and commission.

B. The council liaison serves to advise the city council of the background, attitudes and reasons behind decisions and recommendations of the board or commission; and, on request of any member of the board or commission, to advise the commission of policies, procedures and decisions of the council that may bear on matters under discussion by the board or commission.

C. The council liaison may attend the meetings of the board or commission but, except as elsewhere specifically provided, shall have no power to vote and shall receive no additional compensation.

(Ord. 25209.)